

ORDINANCE NO. 803

AN ORDINANCE REGARDING ROAD MAINTENANCE, AUTHORIZING A FEE FOR THE PURPOSE OF ROAD MAINTENANCE SERVICES AND REPEALING ORDINANCE NOS. 484 AND 540

WHEREAS, street and road deterioration, if not managed through a program of prevention, early detection, and repair, can lead to large-scale disrepair and destruction of City streets and roads with serious traffic safety consequences as well as the sustained interruption of residential, industrial and commercial flow of traffic and the blighting of residential, industrial and commercial neighborhoods and areas of the City; and

WHEREAS, the City Council has concluded that a safe, functioning City street system through a regulated program of street maintenance is a priority need; and

WHEREAS, the City Manager has appointed a Task Force, comprised of business and citizen representatives, to consider methods of regulating a needed road maintenance program with a stable funding source to assure implementation of such a program; and

WHEREAS, said Task Force has held five work sessions from April 2016 through August of 2016, and has unanimously recommended a system whereby City streets are maintained at an overall safe functioning street system of an average pavement condition index (PCI) rating with a minimum of 65; and

WHEREAS, the Task Force recommends a methodology to categorize user classifications and to fairly apportion fees for such user classification for the purposes of a safe, functioning street system through a regulated road maintenance program; and

WHEREAS, the City Council finds said street maintenance regulatory program and methodology of categorizing road user classifications and apportioning fees to respective classifications is a reasonable and rational way to regulate a safe, functioning street system;

NOW, THEREFORE THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

ARTICLE I

Definitions

Section 1. The following words and phrases, as used within this ordinance, have the following definitions and meanings:

Developed Property. A parcel or portion of real property on which an improvement exists. Improvement on developed property includes, but is not limited to, buildings, parking lots, and outside storage.

ITE Manual. Institute of Transportation Engineers Trip Generation Manual.

Pavement Condition Index (PCI). A uniform way to measure pavement distress with a rating scale from 1 to 100, with higher values indicating better condition.

Street or Road. A public road or right-of-way within the City, which is under the jurisdiction or control of the City. For purposes of this ordinance, county, state and federal roads are excluded.

ARTICLE II

Regulatory Program

Section 1. There is hereby created a road maintenance regulatory program for the purpose of maintaining a safe, functioning City street system measured at an overall average pavement condition index (PCI) rating above 65.

Section 2. A road maintenance fund has been established. Revenues collected pursuant to this ordinance shall be dedicated to the road maintenance fund and used exclusively to fund the street maintenance/regulatory program to provide for a safe, functioning street system. In the event that road maintenance fees collected are insufficient to properly regulate the maintenance of City streets, additional funding may be allocated by the City Council from other non-dedicated City funds provided, however, the City Council may direct the reimbursement to such other fund from road maintenance fees.

ARTICLE III

Authorization

Section 1. In order to maintain a safe, functioning street system a monthly road maintenance fee shall be charged to customers according to a methodology established by City Council resolution. Changes to the methodology or fee shall also be adopted by resolution.

Section 2. The City's Community Development Director or designee is authorized to review the operation of this program and where appropriate recommend changes thereto in the form of administrative procedures for adoption by the City Council by resolution. Such procedures if adopted by the Council shall be given full force and effect, and unless clearly inconsistent with this ordinance shall apply uniformly throughout the City.

Section 3. Every five years the City shall convene a Task Force for the purpose of reviewing the revenue requirements of the road maintenance program and the corresponding fees charged to ensure a sustainable program. The Task Force shall advise the City Council as to any recommended modifications to the program or fees. Such a review shall occur sooner in the

event the City receives substantial new sources of funds from federal, state, regional, or county programs earmarked for street system maintenance/improvements.

ARTICLE IV

Enforcement

Section 1. For customers that pay a combined City utility bill, in the event the bill is not paid in full and funds received by the city for utility billings are inadequate to satisfy in full all of the water, sewer, stormwater, streetlight, and road maintenance fees, credit shall be given first to the road maintenance fee, second to the sewer service charges, third to the storm water charges, fourth to the streetlight charges, and fifth to the charges for water service.

Section 2. In addition to other lawful enforcement procedures, the City may enforce the collection of charges required by this ordinance by withholding delivery of water to any premises where road maintenance fees are delinquent or unpaid. Those customers without City utilities shall be delinquent if payment is not received within 15 business days of being billed, and may be subject to additional fees and penalties, including amount being sent to collections, if timely payment is not made.

Section 3. Notwithstanding any provision herein to the contrary, the City may institute any necessary legal proceedings to enforce the provisions of this Ordinance, including, but not limited to water shut-off and collection of charges owing, plus interest at the then current judgment rate. The City's enforcement remedies may be cumulative.

ARTICLE V

Appeal Process

Section 1. A road maintenance fee billing rate may be appealed in accordance with the following criteria and procedures. Any property owner/manager who disputes any interpretation given by the City as to the assigned billing category may appeal such interpretation.

a.) Appeal shall be made to the Community Development Director or designee. The Director may delegate the initial review and evaluation as may be necessary.

b.) If the appeal is successful, relief will be granted by reassignment to a more appropriate billing category. In such instances, reimbursement will be given for any overpayment, retroactive to the filing date of the appeal. Factors to be taken into consideration include, but are not limited to: availability of more accurate information; equity relative to billing categories assigned to other developments of a similar nature; changed circumstances; situations uniquely affecting road usage by the party filing the appeal.

c.) Application for appeal shall state the reason(s) for appeal and the requested reassignment in billing category with supporting documentation to justify the requested change.

d.) If the Community Development Director decides information provided through the appeal process justifies a change, the Community Development Director may authorize a change (up or down) retroactive to the date the appeal was filed.

e.) The Community Development Director shall make all reasonable attempts to resolve appeals utilizing available existing information, including supporting documentation filed with the appeal, within 30 days of the date the appeal was filed. If, however, more detailed site-specific information is necessary, the Community Development Director may request the applicant provide information regarding: size of the development, number of employees, number of business patrons, volume and/or nature of the business activity, or other factors reasonably related to the trip generation of the site.

f.) The Community Development Director shall file a report within 90 days of the date the appeal was filed explaining the disposition of the appeal, along with the rationale and supporting documentation for the decision reached.

g.) Decisions of the Community Development Director may be further appealed to the City Council, and shall be heard at a public meeting. Upon such appeal, the City Council shall, at its first regular meeting thereafter, set a hearing date and determine if the matter shall be heard solely upon the record or whether additional or new information and testimony may be submitted. In no event shall a final decision be made later than 90 days after the matter was formally appealed to the City Council.

h.) Appeals to the Community Development Director filed within 120 days of the effective date of this Ordinance shall not be subject to payment of an appeal fee. After this 120-day period, an appeal fee will be required for an appeal to the Community Development Director. An additional appeal fee is required for any appeal to the City Council. All appeal fees will be set by Council resolution and are fully refundable should the appellant adequately justify and secure the requested reassignment in billing category.

ARTICLE VI

Severability

Section 1. In the event any section, subsection, paragraph, sentence or phrase of this ordinance or any administrative policy adopted herein is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the ordinance shall continue to be effective.

Section 2. Nothing contained herein shall be construed as limiting the City's authority to levy special assessments in connection with public improvements pursuant to applicable law.

Section 3. The fees and charges herein are not intended to be taxes, nor are they subject to the property tax limitations of Article XI, Section 11(b), of the Oregon Constitution.

ARTICLE VII

Repeal of Prior Ordinances

Section 1. Ordinance No. 484 is hereby repealed.

Section 2. Ordinance No. 540 is hereby repealed.

SUBMITTED to the Wilsonville City Council and read for the first time at a meeting thereof on the 19th day of December, 2016, and scheduled for second reading on January 5, 2017, commencing at the hour of 7 p.m. at the Wilsonville City Hall, 29799 SW Town Center Loop East, Wilsonville, Oregon.

Sandra C. King, MMC, City Recorder

ENACTED by the City Council on the 5th day of January, 2017, by the following votes:

Yes: -3-

No: -0-

Sandra C. King, MMC, City Recorder

DATED and signed by the Mayor this _____ day of January, 2017.

TIM KNAPP, MAYOR

SUMMARY OF VOTES:

Mayor Knapp	Yes
Council President Starr	Excused
Councilor Stevens	Yes
Councilor Lehan	Yes
Councilor Akervall	Abstain